



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Keith E. Buckle et al. Art Unit : 1745
Serial No. : 09/878,748 Examiner :
Filed : June 11, 2001
Title : ANODE CANS FOR ELECTROCHEMICAL CELLS

RECEIVED

JUL 23 2002

Commissioner for Patents
Washington, D.C. 20231

OFFICE OF PETITIONS

DECLARATION OF ROBERT C. NABINGER

1. I am making this declaration in support of a Renewed Petition Pursuant to 35 U.S.C. § 116 and 37 C.F.R. § 1.47(a).
2. I am a principal with Fish & Richardson P.C., 225 Franklin Street, Boston, MA 02110. I represent The Gillette Co.
3. On May 30, 2002, under my supervision and instruction, Mr. Tu Nguyen, an associate at my firm, mailed a cover letter, a complete copy of U.S.S.N. 09/878,748 (including specification, claims and drawings), and Declaration/Power of Attorney to Mr. Masaaki Ishio at his last known address. See Exhibit A. Mr. Ishio is a named co-inventor on the above-captioned application. The cover letter asked Mr. Ishio to sign the Declaration/Power of Attorney.
4. On June 17, 2002, Mr. Shono replied for Mr. Ishio in an e-mail (Exhibit B) to Mr. Nguyen. The e-mail said

I am writing this letter dated May 30, 2002, Ref. No.: 08935-247001, concerning signature of Mr. Ishio for "Combined Declaration and Power of Attorney".

We are thinking that we should reach the confidential agreement with Gillette before Mr. Ishio will sign those documents. We hope that this agreement would be finalized by end of July. We would like ask you to wait for some time.

If you have any questions, please feel free to contact me at any time.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

July 17, 2002

Date of Deposit

Signature

Sherry L. Hunt

Typed or Printed Name of Person Signing Certificate

Applicant : Keith E. Buck
Serial No. : 09/878,748
Filed : June 11, 2001
Page : 2

Attorney's Docket No.: 08935-247001 / M-4963

Mr. Shono apparently is the Manager, Electrical Materials Sales at Sumitomo Special Metals Co., and does not appear to be Mr. Ishio's legal representative. Mr. Ishio was copied on the e-mail.

5. On June 18, 2002, I sent the following e-mail to Mr. Ishio (see Exhibit C):

I am responding to Mr. Shono's email (below) to Mr. Nguyen of my firm. You were copied on the email.

Mr. Nguyen sent a letter to you on May 30, 2002 in which he enclosed a complete copy of U.S.S.N. 09/878,748, including a Combined Declaration/Power of Attorney. He requested that you sign the Combined Declaration/Power of Attorney and return it to him by June 19, 2002.

Instead of signing the Combined Declaration/Power of Attorney, you apparently contacted Mr. Shono and he sent the email below. To my knowledge, Mr. Shono is not an attorney and is not representing you as an attorney. As a result, I am sending this email directly to you as a co-inventor of U.S.S.N. 09/878,748.

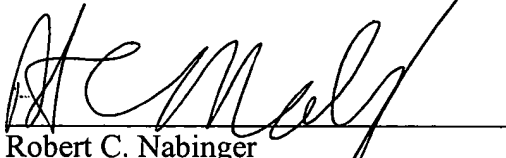
We again request that you sign the Combined Declaration/Power of Attorney and return it to us.

Thank you for your attention to this matter.

6. As of July 17, 2002, we have not received a signed Combined Declaration and Power of Attorney from Mr. Ishio.

7. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further, these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: July 17, 2002


Robert C. Nabinger

FISH & RICHARDSON P.C.

225 Franklin Street
Boston, Massachusetts
02110-2804

Telephone
617 542-5070

Facsimile
617 542-8906

Web Site
www.fr.com

Frederick P. Fish
1855-1930

W.K. Richardson
1859-1951

VIA FEDERAL EXPRESS

May 30, 2002

Masaaki Ishio
Aikawa 2-24-29
Higashiyodogawa-ku,
Osaka 533-0007,
JAPAN

Re: U.S. Serial No. 09/878,748
F&R Ref. No.: 08935-247001

Dear Ishio:

I am a patent attorney at Fish & Richardson P.C. Last year, we worked with Keith Buckle on a patent application related to copper layers of anode cans. The application was filed on June 11, 2001. You are named as a co-inventor on the patent application, along with Mr. Buckle. Christine Bellon of my firm has written to you previously regarding this matter.

Enclosed please find a complete copy of U.S.S.N. 09/878,748, including a Combined Declaration/Power of Attorney form. We request that you review the application and sign and date the Declaration/Power of Attorney (at the red flags). The Declaration/Power of Attorney does not need to be notarized.

Please return the signed Declaration/Power of Attorney to me as soon as possible, but not later than June 19, 2002.

If you have any questions, please call me.

Very truly yours,



Tu N. Nguyen, Esq.

TXN/slh

20443562.doc



BOSTON

DALLAS

DELAWARE

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

Dear Mr. Tu N. Nguyen,

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concerning signature
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We are thinking that we should reach the confidential agreement with Gillet
before

Mr. Ishio will sign those documents. We hope that this agreement would be
finalized
by end of July. We would like ask you to wait for some time.

If you have any questions, please feel free to contact me at any time.
Thank you and best regards,

Masatomo Shono
Manager, Electronic Material Sales, Tokyo
Sumitomo Special Metals Co., Ltd.
E-mail:SHONO.M@ssmc.co.jp
TEL:81-3-5952-8630
FAX:81-3-5952-8633

Dear Mr. Ishio:

I am responding to Mr. Shono's email (below) to Mr. Nguyen of my firm. You were copied on the email.

Mr. Nguyen sent a letter to you on May 30, 2002 in which he enclosed a complete copy of U.S.S.N. 09/878,748, including a Combined Declaration/Power of Attorney. He requested that you sign the Combined Declaration/Power of Attorney and return it to him by June 19, 2002.

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We again request that you sign the Combined Declaration/Power of Attorney and return it to us.

Thank you for your attention to this matter.

Respectfully,

Robert Nabinger

-----Original Message-----

From: SHONO.M@ssmc.co.jp [mailto:SHONO.M@ssmc.co.jp]

Sent: Monday, June 17, 2002 6:13 AM

To: nguyen@fr.com

Cc: Keith_Buckle@gillette.com; ISHIO.M@ssmc.co.jp; SUGIYAMA.K@ssmc.co.jp

Subject: Patent Issue

Dear Mr. Tu N. Nguyen,

I am writing this letter dated May 30, 2002, Ref. No.:08935-247001, concerning signature of Mr. Ishio for "Combined Declaration and Power of Attorney".

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Mr. Ishio will sign those documents. We hope that this agreement would be finalized by end of July. We would like ask you to wait for some time.

If you have any questions, please feel free to contact me at any time.
Thank you and best regards,

Masatomo Shono
Manager, Electronic Material Sales, Tokyo
Sumitomo Special Metals Co., Ltd.
E-mail: SHONO.M@ssmc.co.jp
TEL: 81-3-5952-8630
FAX: 81-3-5952-8633